

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

ERIC L. WARE,

Petitioner,

v.

UNITED STATES OF AMERICA

Defendant.

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No. 4:22-CV-01277-SEP

MEMORANDUM AND ORDER

Before the Court are Petitioner Eric L. Ware’s Motions for Appointment of Counsel. Docs. [5], [12], [24]. For the reasons set forth below, the motions are denied without prejudice.

In civil cases, a self-represented litigant does not have a constitutional or statutory right to appointed counsel. *Ward v. Smith*, 721 F.3d 940, 942 (8th Cir. 2013). Still, a district court may appoint counsel if “plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). When determining whether to appoint counsel, a court considers factors such as the complexity of the facts and legal arguments, the ability of the self-represented litigant to investigate the facts, the existence of conflicting testimony, and the ability of the self-represented litigant to present his or her claim. *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). After considering these factors, the Court finds the appointment of counsel unwarranted at this time. Plaintiff has demonstrated, at this point, that he can adequately present his claims to the Court.

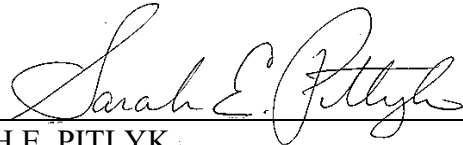
Also before the Court is Petitioner’s request to be granted in forma pauperis status in order to receive free copies of the transcripts from the criminal case underlying this habeas petition, Cause No. 4:20-cr-00500-SEP-1. Doc. [25]. The motion is granted. Pursuant to 28 U.S.C. § 753(f), paper copies of the transcript of his plea and sentencing hearings (Docs. [52] and [54]) shall be provided to Petitioner, and the costs of providing such copies shall be paid for by the United States out of the fund established for that purpose.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motions for Appointment of Counsel (Docs. [5], [12], [24]) are **DENIED** without prejudice.

IT IS FURTHER ORDERED that Petitioner's Motion for Transcripts (Doc. [25]) is **GRANTED**. The Clerk of Court is directed to provide to Petitioner free copies of transcripts (Docs. [52] and [54]) from Cause No. 4:20-cr-00500-SEP-1.

Dated this 9th day of August, 2023.

A handwritten signature in black ink, reading "Sarah E. Pitlyk", written over a horizontal line.

SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE